

APPEAL NO. 020430
FILED MARCH 26, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 29, 2002. The issues were:

1. Did the [appellant] Claimant sustain a compensable injury on _____;
2. If it is determined that the Claimant sustained a compensable injury on _____, does the injury extend to include the Claimant's lumbar spine;
3. Is the [respondent (self-insured)] Carrier relieved of liability under §409.002 because of the Claimant's failure to timely notify her employer pursuant to §409.001; and
4. Did the Claimant have any disability resulting from the claimed injury, and if so, for what period(s)?

The hearing officer determined that the claimant sustained a right elbow injury on _____ (all dates are 2000 unless otherwise noted), but that the injury did not extend to or include her lumbar spine; that the claimant had not timely reported the injury to her employer and did not have good cause for failing to do so; and that, because the claimant had not sustained a compensable injury, she did not have disability.

The claimant disagrees with the hearing officer's decision and asserts that she "did report it [her injury] on time." The self-insured responds, urging affirmance.

DECISION

Affirmed.

The claimant, a clerk in a retail store, testified that on _____, while she was helping to unload a truck, a heavy box hit her right elbow causing her to twist. The claimant testified that she reported the injury to Ms. CR, her supervisor, the same day and that Ms. CR, Ms. CR's mother, and the driver witnessed the event. No evidence from Ms. CR, Ms. CR's mother, or the driver (the claimant did not know who the driver was) was presented at the CCH. The claimant said that she saw a Dr. R on July 26, however, the only report from Dr. R is a largely illegible form report dated November 11. The first documented contact with the Texas Workers' Compensation Commission (Commission) appears to have been on November 27.

The hearing officer comments that while the claimant's testimony "seems credible" there was an absence of evidence "that one might expect to see [in] corroboration." The

claimant at the CCH emphasized this case rested largely on credibility of the testimony. While we have frequently noted that issues of injury, reporting, and disability could be established by the claimant's testimony alone, the testimony of the claimant, as an interested party, only raises an issue of fact for the hearing officer to resolve. Escamilla v. Liberty Mutual Insurance Company, 499 S.W.2d 758 (Tex. Civ. App.-Amarillo 1973, no writ).

The hearing officer is the sole judge of the weight and credibility of the evidence and her determinations on extent of injury, reporting, and disability are supported by the evidence. The hearing officer's determinations on the issues are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**PRESIDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge